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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/989,976

11/20/2001

Haviland Wright

50041-00055

1715

25231

7590

01/10/2008

MARSH, FISCHMANN & BREYFOGLE LLP

3151 SOUTH VAUGHN WAY

SUITE 411

AURORA, CO 80014

EXAMINER

HARRINGTON, ALICIA M

ART UNIT

PAPER NUMBER

2873

MAIL DATE

DELIVERY MODE

01/10/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

09/989,976

Applicant(s)

WRIGHT ET AL.

Examiner

Alicia M. Harrington

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 and 40-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23, 25-34 and 40-46, 48-51 is/are rejected.
- 7) ☒ Claim(s) 24 and 47 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>1007</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Information Disclosure Statement

The Examiner has considered the information disclosure statement filed on 10/31/07.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

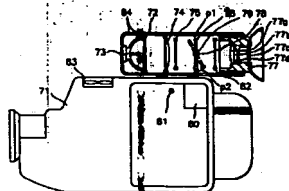
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 11, 13-15, 17, 32, 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Lim (US 5,300,976).

U.S. Patent Apr. 3, 1995 Sheet 6 of 9 5,300,976

FIG. 6a



Regarding claims 1-3, 11, 13, 14, 32, 41 see col. 5 and col. 6, lines 1-30.

Regarding claim 15, movement of the optical mount in figure 5-col. 6, lines 25-35.

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Claims 1-3, 8-17, 25, 27-29, 32, 33, 40-44, 46, 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Richard (US 5,633,762).

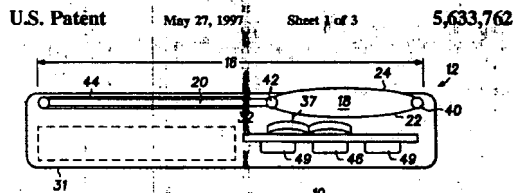


FIG. 1

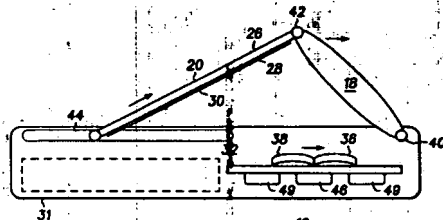


FIG. 2

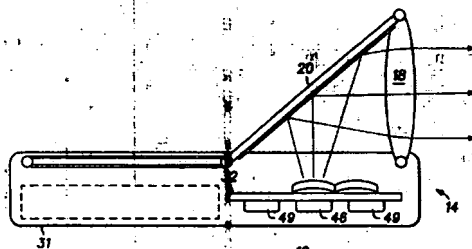


FIG. 3

Regarding claims 1-2, 40-44, 46 first modes (figure 1) and second mode (figure 3-via lens 14).

Regarding claims 3, 8-13, 16, 25, 27-29, 32, 33 see col. 8 & 9.

Regarding claims 14-15, col. 10, lines 35-60.

Regarding claims 17, via lens 18.

Regarding claim 19, the surface of the LCD display.

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-7, 20-23, 26, 49-51 rejected under 35 U.S.C. 103(a) as being unpatentable over Richard (US 5,633,762).

Regarding claims 4-7, liquid crystal micro displays are well known architectures. Thus, it would have been obvious to one of ordinary skill in the art to include these types of displays, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability of the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Richard discloses the claimed invention; except for the limitation of an image screen moveable between at least two positions, an active position for use when the first mode is in operation, and an inactive position for use when the first mode is not in operation, and sensing arrangement as in claims 20-22. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide active and inactive positions as claimed for the purpose of power efficiency and storage.

Richard discloses the claimed invention; except for the limitation of the image screen is polarized to reject at least a portion of the ambient light present in the device's operating

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environment, as in claim 23. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the screen of Richard with a polarized screen to provided better view of image.

Richard discloses the claimed invention; except for the limitation first optical path and second optical path are now where coincident as in claim 26. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include this feature as a matter of design choice.

Claims 49-51 are substantially equivalent to the claims discussed above.

Claims 31, 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lim (US 5,300,976).

Lim discloses the claimed invention; except for the limitation the display device is a digital still camera, as in claim 31. Since Lim teaches the use of video camera; and it is well known that a video camera can also be used as still camera. It would be an obvious progression of video camera features to include.

Lim discloses the claimed invention; except for the limitation the display device is a personal digital assistant, as in claim 34. Since Lim teaches the use of video camera, it would be an obvious progression in the art of video imaging to include these features in a PDA.

Claims 18 rejected under 35 U.S.C. 103(a) as being unpatentable over Lim (US 5,300,976) in view of Hirasawa (US 6,091,450).

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Lim teaches video camera with eyepiece. However, Lim fails to specifically disclose a proximity sensor.

Hirasawa teaches a video camera with proximity sensor—see col2. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lim, to include this feature, as a way of detecting when the user was looking in the viewfinder so that mode could be activated- an sellable working feature.

Allowable Subject Matter

Claims 24, 47 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Harrington whose telephone number is 571 272 2330. The examiner can normally be reached on Monday - Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack can be reached on 571 272 2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Alicia M Harrington
Primary Examiner
Art Unit 2873

amh